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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/085,034   | 03/01/2002  | Keizo Sugiyama       | 020236              | 8801             |
| 23850  | 7590        | 09/06/2006           | EXAMINER            |                  |
| ARMSTRONG, KRATZ, QUINTOS, HANSON & BROOKS, LLP<br>1725 K STREET, NW<br>SUITE 1000<br>WASHINGTON, DC 20006 |             |                      | DYKE, KERRI M       |                  |
|  |             |                      | ART UNIT            | PAPER NUMBER     |
|  |             |                      | 2616                |                  |

DATE MAILED: 09/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                                      |  |  |
|------------------------------|--------------------------------------|--|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/085,034 | <b>Applicant(s)</b><br>SUGIYAMA ET AL. |  |
|                              | <b>Examiner</b><br>Kerri M. Rose     | <b>Art Unit</b><br>2616                |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 14 March 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,5,8,10,11,14 and 17 is/are rejected.
- 7) ☒ Claim(s) 3,4,6,7,9,12,13,15,16 and 18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Priority*

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 2, 5, 8, 10, 11, 14, and 17 are rejected under 35 U.S.C. 102(e) as being anticipated by Kostic et al. (US 6,826,409).
4. In regards to claim 1, Kostic discloses a wireless LAN system comprising: a plurality of wireless stations (fig. 1 element 104); and a switching apparatus (fig. 1.102) for switching a frequency channel used between stations for communication, the switching apparatus having a means for selecting a frequency channel (col. 5 lines 35-37), and a means for sending a switching request packet that identifies the selected frequency channel to the stations (col. 5 lines 37-39) upon expiration of a polling period (col. 9 lines 5-8 discloses the frequency reassignment is carried out in response to a request, i.e. poll), each station having a means for switching a frequency channel from the channel being used to the channel identified by the switching request packet (col. 4 lines 10-12).
5. Claim 10 is rejected upon the same grounds as claim 1.

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6. In regards to claim 2, Kostic discloses a wireless LAN system comprising: a plurality of wireless stations (fig. 1 element 104); and a switching apparatus (fig. 1.102) for switching a frequency channel used between stations communicated with each other, said switching apparatus including means for selecting a frequency channel to be used (col. 5 lines 35-37), and means for sending a switching request packet for specifying said selected frequency channel to said stations (col. 5 lines 37-39), each of said stations including means for switching a current frequency channel to the frequency channel specified by the switching request packet (col. 4 lines 10-12) wherein the switching apparatus further comprises a manager for collecting a line status information indicating the varying status of lines between the stations (col. 9 lines 10-12), and a means for judging whether a frequency channel should be switched based on the line status information (col. 9 lines 13-38); each station has an agent for sending the line status information to the manager in the switching apparatus (col. 9 lines 10-12 discloses each station sends information to a manager in the switching apparatus. Therefore, each station must have an agent to send the information.); and the selecting means in the switching apparatus selects the frequency channel based on a judgment of the judging means (col. 9 lines 40-50).

7. In regards to claim 5, Kostic discloses a system as claimed in claim 1, wherein said selecting means in said switching apparatus selects a frequency channel so that a polarized wave of said frequency channel to be selected does not overlap polarized waves of neighbor frequency channels (col. 11 lines 24-30).

8. In regards to claim 8, Kostic discloses a system as claimed in claim 1, wherein said stations consist of one parent-station (fig. 4.404) and a plurality of child-stations (4.402); the agent in the parent-station and each child-station calculates a percentage value of the number of

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success packets in relation to the total number of packets for each wireless link between the parent-station and each child-station (col. 7 lines 42-54), and sends a percentage value for each wireless link to the switching apparatus (col. 8 lines 53-60); the manager in the switching apparatus receives the percentage value; and the switching judgment means judges based on the number of wireless links for which the percentage value is smaller than a threshold whether a frequency channel should be switched (col. 10 lines 10-13).

9. Claims 11, 14, and 17 are rejected upon the same grounds as claims 2, 5, and 8 respectively.

***Allowable Subject Matter***

10. The indicated allowability of claims 2, 5, 8, 11, 14, and 17 is withdrawn in view of the newly discovered reference(s) to Kosic et al. Rejections based on the newly cited reference(s) are above.

11. Claims 3, 4, 6, 7, 9, 12, 13, 15, 16, and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Lappetelainen et al. (US 6,834,045) discloses an apparatus and method for changing frequency allocations in a wireless system. Figures 3-5 disclose messages used for exchanging frequency assignment updates.

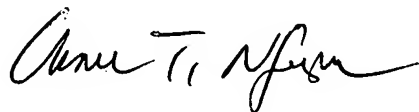
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kerri M. Rose whose telephone number is (571) 272-0542. The examiner can normally be reached on Monday through Thursday, 7:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau Nguyen can be reached on (571) 272-3126. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

kmr



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